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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FELICITA MELENDEZ, :  
Plaintiff, : CIVIL NO.: 12-CV-8846 (PKC)  
vs. :  
GERARDO RODRIGUEZ, VOLPE DEDICATED, :  
INC., and RITE AID HEADQUARTERS CORP, :  
Defendants. :  
-----X

**PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE OR SUBSTANTIALLY LIMIT  
OPINION TESTIMONY OF KEVIN GALBREATH**

Plaintiff, FELICITA MELENDEZ, moves the Court for an Order, pursuant to Federal Rules of Evidence Rules 104, 401, 403, 702, and 703, precluding or substantially limiting the testimony of Defendant RITE AID HEADQUARTERS CORP's (hereinafter "Rite Aid") proffered expert witness in matters of transportation safety, Kevin Galbreath.

This motion is made on the grounds that Mr. Galbreath, who has never been accepted as an expert at trial by any Federal or State court, is manifestly unqualified to render the opinions to which it is anticipated he will testify at trial, as detailed in his report exchanged by Defendant and in his sworn deposition testimony on August 28, 2013. Furthermore, those opinions are irrelevant, pose a risk of confusing the issues and needlessly presenting cumulative evidence that substantially outweighs whatever limited probative value they may have, will not assist the jury

in determining any fact at issue in this case, are based on unreliable principles and methods that were not reliably applied to the facts of the case, and in some instances are not based on facts or data in the case of which Mr. Galbreath has been made aware of or personally observed. All of the foregoing is more fully addressed in the Declaration and Memorandum of Law submitted in support of Plaintiff's motion.

Dated: September 11, 2013

Sincerely,

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